

**NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS**

California Rules of Court, rule 977(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 977(b). This opinion has not been certified for publication or ordered published for purposes of rule 977.

**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FIFTH APPELLATE DISTRICT**

THE PEOPLE,

Plaintiff and Respondent,

v.

RUSSELL JOHNSON,

Defendant and Appellant.

F044944

(Super. Ct. No. F02900270-0)

**OPINION**

**THE COURT\***

APPEAL from a judgment of the Superior Court of Fresno County. Brant Bramer, Temporary Judge. (Pursuant to Cal. Const., art. VI, § 21.)

Deborah Prucha, under appointment by the Court of Appeal, for Defendant and Appellant.

Bill Lockyer, Attorney General, Robert R. Anderson, Chief Assistant Attorney General, Mary Jo Graves, Assistant Attorney General, and Charles A. French, Deputy Attorney General, for Plaintiff and Respondent.

-ooOoo-

---

\* Before Vartabedian, Acting P.J., Harris, J., and Cornell, J.

On February 1, 2002, appellant, Russell Johnson, pled guilty to one count of possession of concentrated cannabis (Health & Saf. Code, § 11357, subd. (a)) pursuant to a plea agreement. Under the terms of the agreement, an allegation that Johnson possessed cannabis for sale (Health & Saf. Code, § 11359) would be dismissed and he would be placed on probation. The trial court placed Johnson on probation on March 5, 2002.

On November 12, 2003, Johnson admitted he violated the terms of his probation by failing to submit to drug testing and failing to enroll in a drug treatment program. On December 17, 2003, the court reinstated Johnson on probation on condition that he be accepted into a local drug treatment program. Johnson waived custody credits “for local purposes” and was told that he would have to serve 365 days in jail if he failed to enter a drug treatment program.

Johnson’s appointed appellate counsel has filed an opening brief which summarizes the pertinent facts, raises no issues, and requests this court to independently review the record. (*People v. Wende* (1979) 25 Cal.3d 436.) The opening brief also includes the declaration of appellate counsel indicating that Johnson was advised he could file his own brief with this court. By letter on June 1, 2004, we invited Johnson to submit additional briefing. To date, he has not done so.

After independent review of the record, we have concluded no reasonably arguable legal or factual argument exists.

The judgment is affirmed.